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The Future of Agricultural Trade Governance in the World Trade Organization

Dr James Scott

Abstract

Constructing multilateral rules to govern trade in agricultural goods has been notoriously difficult. What success there has been relied on linking liberalization in agriculture to broader deals involving multiple sectors through the principle of the single undertaking, but the World Trade Organization's (WTO) Nairobi ministerial conference of 2015 has abandoned that principle, shifting the multilateral trade system onto a new trajectory. Using the broad body of political economy theory, this article argues that there is now very little prospect that the WTO will be able to liberalize agricultural trade, with the consequence that the WTO will be unable to expand the trade opportunities of those countries that specialize in producing agricultural commodities. For this reason, the multilateral trade system looks increasingly ill-suited to the commercial needs of those low-income countries that are reliant on exporting agricultural goods and the promise of development through expanding trade based on comparative advantage is being tacitly pushed aside. This article argues that the abandonment of the single undertaking demands a deep reflection by WTO member states and other stakeholders on the underlying principles of the WTO, its future direction and how trade opportunities will be created for all within a system that has effectively abandoned further liberalization within agriculture.

The Future of Agricultural Trade Governance in the World Trade Organization

Dr James Scott¹

Introduction

Today's system of agricultural governance is highly inequitable. Many of the world's richest countries provide steep tariff protection and generous subsidies to their farmers, denying market opportunities to agricultural exporters – many of which are developing countries – and depressing global prices. Addressing the inadequacies of the current regime was made a key component of the World Trade Organization's (WTO) first full trade round, the Doha Development Agenda (DDA). The DDA ultimately failed and disagreement over agriculture lay at the heart of its collapse. Indeed, in some regards the difficulties member states face in liberalizing agriculture have stalled the entire process of fully multilateral trade governance, as members have abandoned the pursuit of agreements that include all states in favour of plurilateral WTO agreements – as will be explored below.²

In this article I argue that the new negotiating principles that have been put in place have made the task of agreeing a meaningful WTO agreement on agriculture all-but impossible. The history of attempts to liberalize agriculture has demonstrated the importance of the 'single undertaking' principle within multilateral trade negotiations, under which agriculture forms just one area of a

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² Rorden Wilkinson, James Scott and Erin Hannah, 'The WTO in Nairobi: The Demise of the Doha Development Agenda and the Future of the Multilateral Trading System', *Global Policy* 7: 2, 2016, pp. 247-255.

wider deal covering numerous areas of the economy. Through the single undertaking, domestic opposition to liberalization from agricultural groups can be counter-balanced by the export interests within other sectors, and this has been essential in securing any deal that aims to liberalize agricultural trade. However, at the WTO's 2015 Nairobi ministerial conference the single undertaking was abandoned and, though not officially acknowledged, the prospect of any meaningful deal on agriculture went with it. This new reality has profound consequences for the future of the multilateral trade system and particularly for the distribution of benefits to be found therein. Though some have argued that the single undertaking is overly obstructive and other negotiation designs could be used to help facilitate trade agreements, for core sectors such as agriculture most suggestions for future negotiating processes continue to rely on a single undertaking approach.³ As argued below, with regard specifically to agriculture the single undertaking has been an essential element of achieving agreement on subsidy reduction and its abandonment makes the prospect of further multilateral disciplines on subsidies significantly more remote.

As the WTO moves to plurilateral approaches we are returning to the situation that characterized the General Agreement on Tariffs and Trade (GATT), in which the most powerful states set the agenda. Both qualitative and quantitative work has demonstrated how this led to the gains from the trade system being channelled primarily to the rich industrial countries, while developing countries – and particularly among them those that were reliant on agriculture for export earnings – were left behind.⁴ The DDA was premised on a move away from this tradition, with an explicit endeavour to rebalance the historical biases of the GATT/WTO against the interests of developing countries and to

³ See Sonia E. Rolland, 'Redesigning the Negotiation Process at the WTO', *Journal of International Economic Law* 13: 1, 2010, pp. 65-110; and Peter Sutherland, *The future of the WTO: addressing institutional challenges in the new millennium*, (Geneva, WTO, 2004).

⁴ See, among others, Arvind Subramanian and Shang-Jin Wei, 'The WTO promotes trade, strongly but not evenly', *Journal of International Economics* 72: 1, 2007, pp. 151-175; Joanne Gowa and Soo Yeon Kim, 'An exclusive country club: the effects of the GATT on trade, 1950-94', *World Politics* 57: 4, 2005, pp. 453-478; Rorden Wilkinson, *What's wrong with the WTO and how to fix it* (Cambridge: Polity, 2014); Karin Kock, *International Trade Policy and the GATT 1947-1967* (Stockholm: Almqvist and Wiksell, 1969).

strengthen the rules on agriculture in particular. The effective termination of the DDA and the abandonment of the single undertaking has signalled an abdication from that endeavour and a return to the previous negotiating dynamic, dominated by the most powerful states and excluding those areas that they do not find expedient. For those countries that are reliant on agriculture for export earnings – and this category includes some of the poorest states – this future looks bleak.

This article analyses the policy processes of trade governance and how domestic political economy considerations interact with the negotiating practices and principles within the WTO. It is through this interaction that trade opportunities are negotiated and cemented into international law. We cannot reliably quantify the lost trade revenues that the changes made to the WTO's principles of negotiation will bring about, but we can understand how they will shape the future direction of the institution and how this will structure where commercial opportunities are created.

The article unfolds as follows. The governance of agriculture, perhaps more than any other area of trade policy, can only be understood both historically and with a grasp of the political economy of trade. For this reason, following this introduction section two examines the political economy constraints on liberalization. Section three explores the historical process that delivered the current situation, through the GATT, the Uruguay round and the DDA negotiations, and traces the importance of the single undertaking. The fourth section examines some reform proposals that have been put forward, before the penultimate section draws implications from the preceding analysis for the future direction of the WTO. The final section concludes.

The Political Economy of agriculture

Agriculture has always been at the heart of political economy as a discipline, particularly concerning the appropriate role of states and markets.⁵ Orthodox economics points to the benefits of greater liberalization of agricultural trade. Tariffs on agricultural goods are almost universally higher than on manufactured goods, while rich countries – and increasingly emerging economies – employ complex subsidies distributing billions of dollars to farmers (or, as explored below, to landowners). As a result, agriculture is the most distorted sector of the global economy. Estimates of the benefits of moving to free trade made using computable general/partial equilibrium models suggest that around 63 per cent of total gains would arise from liberalizing agriculture.⁶ These estimates come with immense caveats and the predictions concerning the economic gains to be had from liberalization cannot be taken literally,⁷ but such models nonetheless give an indication of the relative ‘efficiency gains’ to be had within each sector.⁸

However, for all the economic gains that are promised, protectionism remains the norm. Understanding why this is the case has been a perennial question of political economy since at least the time of Adam Smith.⁹ Numerous approaches have evolved, all of which give insights into why it has proven to be so difficult to treat agriculture in the same way as other sectors of the economy. Here, I briefly set out five.

First, the economic benefits that liberalization brings are dispersed while the costs are concentrated. For present purposes, within the industrialized states the benefits would accrue primarily to

⁵ Anne Orford, ‘Food Security, Free Trade and the Battle for the State’, *Journal of International Law and International Relations* 11: 2, 2015, pp. 1-67.

⁶ Kim Anderson and Will Martin, ‘Agricultural Trade Reform and the Doha Development Agenda’, *The World Economy* 28: 9, 2005, p. 1312.

⁷ See among others, Clive George, ‘Numbers’, in Erin Hannah, James Scott and Silke Trommer, eds., *Expert Knowledge in Global Trade* (Abingdon and New York: Routledge, 2016).

⁸ Though it should be noted that such Smithian efficiencies are only one consideration within trade policy making. See George, ‘Numbers’.

⁹ For an overview, see Helen V. Milner, ‘The political economy of international trade’, *Annual Review of Political Science* 2: 1, 1999, pp. 91-114.

consumers through lowering the costs of the food they consume and reducing the fiscal burden. The costs would be borne by the small number of people engaged in farming in those countries facing greater import competition, giving them an incentive to push for protection. Furthermore, typically around 80 per cent of subsidies go to just 20 per cent of farmers, concentrating the costs of subsidy reform even further.

Second, various pressure group models have been developed to bring insight to understanding which domestic factions support and which oppose trade liberalization. These focus either on factors of production (typically labour and capital) such as in the Stolper-Samuelson model, or on importers and exporters as developed in the Ricardo-Viner approach. The latter sets out why the movement towards free trade is expected to diminish profits within import competing industries and lead to their contraction, thus generating political pressures from those within these sectors to continue protection. In those countries that are not globally competitive in agriculture, which includes some of the most influential WTO members, powerful and well organized lobby groups have formed to ensure that their interests are not ignored by politicians.

Third, agricultural protection forms a core part of the 'embeddedness' of the embedded-liberal compromise that John Ruggie identified as characterising the trade system.¹⁰ The post-war trade regime was liberal up to a point, but contained substantial room for government intervention in the economy in support of social objectives. One such objective was the desire to protect small scale farmers and rural communities. Robert Wolfe interprets this through the concept of the Polanyian 'double movement'.¹¹ The GATT, in this view, reflected a 'compromise between the expansion of the global *market* and a predictable *social* response to that expansion ... [and] was a compromise

¹⁰ John Gerard Ruggie, 'International regimes, transactions, and change: embedded liberalism in the postwar economic order', *International organization* 36: 2, 1982, pp. 379-415.

¹¹ Robert Wolfe, *Farm Wars: The Political Economy of Agriculture and the International Trade Regime* (Basingstoke: MacMillan, 1998); see also Karl Polanyi, *The great transformation: The political and economic origins of our time* (Beacon Press, 1944).

between the need to end the managed trade of the 1930s and the equal imperative of preserving the social innovation of the New Deal'.¹² Protection of marginalized rural economies formed part of the compromise necessary to make post-war liberalization socially sustainable.

Fourth, agriculture is sometimes claimed to be different from other sectors and to deserve special treatment. This idea, pushed particularly by the EU, can be found in the concept of 'multifunctionality' – defined by the WTO as the idea that 'agriculture has many functions in addition to producing food and fibre, e.g. environmental protection, landscape preservation, rural employment ... etc'.¹³ Multifunctionality has been controversial as it has frequently been argued to be little more than an excuse for protectionist countries to avoid tackling trade distortions, an argument made both by the US and many developing countries.¹⁴ Whether or not the concept of multifunctionality holds water, there is broad support among the populations of rich countries in favour of trade protection in this area.¹⁵ The concept of multifunctionality reflects some deeply held social and cultural aspects of agriculture. Rice in Japan, for instance, is not merely the staple grain but suffuses Japanese culture. The effort and social cooperation required for growing rice in paddy fields has been identified as forming the basis for Japanese norms of cooperative organization.¹⁶ A similar cultural importance is attached to dairy farming in Switzerland. Within Western Europe, attitudes to the agricultural sector have been partly shaped by the experience of World War II and its associated deprivations. Many other similar examples can be found from around the world. Food and its production have a cultural significance that is different to other areas of the economy.

¹² Wolfe, *Farm Wars*, p. 40-41, italics his.

¹³ WTO, 'Glossary: multifunctionality', available from www.wto.org/english/thewto_e/glossary_e/glossary_e.htm, 2016, [accessed 30th June 2016].

¹⁴ Mary Bohman, Joseph Cooper, Daniel Mullarkey, Mary Anne Normile, David Skully, Stephen Vogel and Edwin Young, 'The use and abuse of multifunctionality', (Economic Research Service, USDA, 1999); for a somewhat contending perspective see Clive Potter and Jonathan Burney, 'Agricultural multifunctionality in the WTO—legitimate non-trade concern or disguised protectionism?', *Journal of Rural Studies* 18: 1, 2002, pp. 35-47.

¹⁵ Andreas Brandenburg, 'Animal Welfare Social Preferences for Benefits from a Multifunctional Agriculture in Switzerland', in OECD (ed.) *Policy Responses to Societal Concerns in Food and Agriculture: Proceedings of an OECD Workshop*, (Paris: OECD, 2010).

¹⁶ Michael Ashkenazi and Jeanne Jacob, *The Essence of Japanese Cuisine: An Essay on Food and Culture* (Richmond, Curson, 2000), p. 38.

More recently, developing countries have reinvigorated the idea of agriculture warranting special treatment through the rise of concerns about food security, though as Matias Margulis has argued such concerns have been a recurrent element of the trade system.¹⁷ After the onset of the global food price crisis in 2007, the associated higher prices for staple crops and the wave of protests to which this gave rise, some developing countries have pushed for changes within the WTO to ensure that they are able to pursue policies that protect marginalized communities.¹⁸ The G33, which has championed this issue, has suggested excluding from subsidy limits ‘policies and services related to farmer settlement, land reform programmes, rural development and rural livelihood security in developing country Members’.¹⁹ This issue came to the fore in the WTO in recent years, particularly at the Bali Ministerial Conference (to which we return below).

Finally, it is important to note when considering the political economy of agriculture that developing countries may share some of the factors examined above but also tend to face unique problems. Though urbanization and large scale poverty reduction in East Asia is changing the distribution of poverty, it remains the case that over 70 per cent of extreme poverty is found in rural areas.²⁰ These people are overwhelmingly small-holder subsistence farmers, though the very poorest – the chronically poor – tend to lack access to enough land for subsistence and have to supplement their income through other means.²¹ Extreme poverty leads to malnourishment, with all the ensuing long-term problems – a permanent reduction in cognitive ability and consequent diminished accumulation of human capital, affecting long-term growth rates. Around 70 per cent of total global

¹⁷ Matias E. Margulis, ‘The Forgotten History of Food Security in Multilateral Trade Negotiations’, *World Trade Review* 16: 1, (2017), pp. 25-57.

¹⁸ Jennifer Clapp and Marc J. Cohen, (eds.). *The global food crisis: Governance challenges and opportunities* (Waterloo, Canada: Wilfrid Laurier University Press, 2009); Noah Zerbe, ‘Setting the Global Dinner Table: Exploring the Limits of the Marketization of Food’, in Jennifer Clapp and Marc J Cohen (eds.) *The Global Food Crisis*, pp. 161-175.

¹⁹ WTO, ‘G33 Proposal on Some Elements of TN/AG/W/4/Rev.4 for Early Agreement to Address Food Security Issues’, JOB/AG/22, 13 November 2012.

²⁰ International Fund for Agricultural Development, *Rural Poverty Report* (Rome: IFAD, 2011), p. 47.

²¹ Chronic Poverty Research Centre, *Chronic Poverty Report 2008-2009*, (Manchester: CPRC, 2010), p. 60.

food production takes place on small-scale farms, making their viability of fundamental importance to both tackling poverty and ensuring food security.²² Such considerations make the agricultural sector a highly sensitive area for the developing world.

Other political economy considerations could be added to the above, but this overview helps to understand why agriculture has been so difficult to bring under the same kind of market regulation as other sectors. Each country faces a different mix of factors but almost all have political difficulties with liberalization, making the negotiation of international trade rules in agriculture highly contested and constrained. However, there is an anomaly that has to be accounted for – the Uruguay round of GATT negotiations – in which a deal (albeit a flawed one) tackling agricultural protection was agreed. The following section examines agriculture within the multilateral trade system and highlights the importance of the single undertaking in enabling the Uruguay round outcome.

Agricultural governance

Agriculture has been treated very differently within the trade system since the present regime was inaugurated with the signing of the GATT in 1947.²³ The principles that the US – the chief architect of that regime – brought to the creation of the post-war trade system were applied only to those areas in which the most powerful, industrialized states held a comparative advantage. Central elements of that system, such as the ban on quantitative restrictions (GATT Article XI.2c) were explicitly not applied to agricultural goods, to ensure that the system did not adversely affect US policies.²⁴ As

²² Orford, 'Food security', p. 10.

²³ Jennifer Clapp, 'Food Security and Contested Agricultural Trade Norms', *Journal of International Law and International Relations* 11: 2, 2015, pp. 104-115.

²⁴ William A Brown Jr, *The United States and the Restoration of World Trade: An Analysis and Appraisal of the ITO Charter and the General Agreement on Tariffs and Trade* (Washington, DC: The Brookings Institute, 1950), p. 15.

Gilbert Winham cogently summarizes: 'the original GATT articles on agriculture were in large measure written to be consistent with US farm support legislation existing in 1947'.²⁵

That said, agriculture was not explicitly excluded from the GATT (other than over quantitative restrictions as noted above – the only GATT article that mentioned agriculture explicitly), but it soon became clear that it would not be treated equally. The GATT almost failed at the first hurdle when negotiations over the first round of tariff cuts nearly collapsed over the issue of wool, with key exporters, led by Australia, demanding more market access into the US, while the US Congress was seeking to raise duties further.²⁶ That conflict was eventually resolved (largely in favour of Australia) facilitating the creation of the GATT, but it was not long before the issue reared up again. In 1950 Congress imposed new, severe quotas on dairy products, indicating that it had little intention of being bound by the liberal spirit of the GATT in the area of agriculture. The following year Congress passed the Trade Agreements Extension Act, stipulating that no trade or other international agreement entered into by the US could be applied in a manner inconsistent with the requirements of section 22 of the Agricultural Adjustment Act (which required the administration to impose quantitative restrictions if imports threatened to impinge upon the effectiveness of a farm programme).²⁷ These policies were declared illegal by the GATT dispute settlement body in 1952, prompting threats by the US to leave the Agreement. In 1955 to resolve the problem the US sought and was granted a waiver from certain GATT obligations 'to the extent necessary to prevent a conflict with such provisions of the General Agreement in the case of action required to be taken by the Government of the United States under Section 22'.²⁸ Unlike most waivers this had no time limit,

²⁵ Gilbert Winham, *International Trade and the Tokyo Round Negotiation* Princeton, (New Jersey: Princeton University Press, 1986), p. 152; see also Brown, *The United States* pp. 15-28.

²⁶ Ann Capling, 'The "Enfant Terrible": Australia and the Reconstruction of the Multilateral Trade system, 1946-8.' *Australian economic history review* 40: 1, 2000: 1-21.

²⁷ Winham, *International Trade*, p. 152.

²⁸ GATT, 'United States Request for Waiver in Connection with Section 22 of the Agricultural Adjustment Act', L/315, 28 January, 1955.

providing an open-ended exclusion of US GATT-inconsistent agricultural policy from action under GATT law. It effectively removed trade in agriculture from the governance of the GATT.

The unique position of agriculture was further cemented with the formation of the Common Agricultural Policy (CAP) of the EEC in the 1950s-60s, aimed primarily at ensuring a fair standard of living for its agricultural community.²⁹ Agricultural exporters raised fears about the CAP in numerous discussions within the GATT, voicing concerns that 'the Community had concocted about as watertight a system of protection as could be devised'.³⁰ However, the US waiver made opposition to the CAP within the GATT difficult as the principle had been established that normal GATT law would not apply to the agricultural sector.

Once the CAP was in place the two dominant contracting parties of the GATT, the US and EEC, which together were largely able to control the agenda, both had an interest in maintaining the exclusion of agriculture. This situation continued largely unchanged until the final GATT round of negotiations, the Uruguay Round. As is well recognized, however, the Agreement was severely flawed. Even WTO Director General Mike Moore, whose position within the WTO mandated political neutrality, stated that the developing countries had been 'fobbed off' by it.³¹ The Agreement on Agriculture required the industrialized countries to convert all trade barriers to tariffs before applying stipulated tariff cuts, but the modalities used for this process enabled them to limit the amount of liberalization brought about. Indeed, in some cases levels of protection were increased. Analysis of the process found that the industrialized countries engaged in significant 'dirty tariffication', through which tariff rates posted were significantly higher than those dictated by the agreed conversion process.

²⁹ For details, see Alan Swinbank and Carolyn Tanner. *Farm policy and trade conflict: the Uruguay Round and CAP reform* (Michigan: University of Michigan Press, 1996), pp. 33-62.

³⁰ Gardner Patterson, (1966), *Discrimination in International Trade: The Policy Issues 1945-1965* (Princeton, Princeton University Press, 1966), p. 203.

³¹ WTO, 'WTO negotiations: agriculture and developing countries', Speech Paris, 6 December, 2000, available from http://www.wto.org/english/news_e/spmm_e/spmm47_e.htm.

Calculations found that the announced tariff equivalent rates exceeded the actual equivalent tariff rates by a proportion of 61 per cent for the EU and 44 per cent for the US.³²

A similar problem arose concerning subsidies. The baseline year for calculating the level of subsidies gave both the US and EU considerable slack in the required cuts due to reforms and price changes after the baseline period of 1986-88.³³ As a consequence, industrialized country support to their agricultural sectors subsequently increased from 31 per cent of gross farm receipts in 1997 to 40 per cent in 1999 without violating the Agreement on Agriculture.³⁴ Since then, the 2002 US Farm Bill brought into effect an 80 per cent increase in subsidies to its farmers but was still in compliance with the letter, if not the spirit, of the agreement.³⁵ The Agreement on Agriculture placed weak restrictions on the type of subsidies that could be used, but no upper limit was placed on subsidies that were not considered to be overly trade distorting, such as insurance schemes, payments for environmental and regional assistance programmes and payments encouraging the restructuring of agricultural production. These flexibilities were the price of getting an agreement. The main aim of the negotiators was to tackle the problem of over-production that had arisen from the subsidization of production, and the only politically acceptable solution was to move to subsidies that encouraged farmers to produce less.³⁶ Despite the Uruguay Round taking eight years to negotiate and temporarily collapsing at the ministerial conference in 1990 when the food exporting nations, led by Brazil, refused the deal on offer because of the weakness of the agricultural component, the final agreement had only a limited impact on previous policies.³⁷

³² Arvind Panagariya, 'Developing Countries at Doha: A Political Economy Analysis', *The World Economy* 25: 9, 2002 p. 1219.

³³ Jarrod Wiener, *Making Rules in the Uruguay Round of the GATT* (Aldershot: Dartmouth Publishing Company, 1995), p. 174.

³⁴ OECD, *Agricultural Policies in OECD Countries: Monitoring and Evaluation 2000*, (Paris: OECD, 2000).

³⁵ Watkins, Kevin Watkins. 'Greed in Action', *The Guardian*, 5 June, 2002.

³⁶ Wolfe, *Farm Wars*.

³⁷ Matias E. Margulis, 'The Forgotten History of Food Security in Multilateral Trade Negotiations', *World Trade Review* 16: 1, 2017, pp. 17-27.

Despite the weakness of the agreement on agriculture and the very limited reforms it required, it was only achievable because it was part of the whole package of agreements that formed the Uruguay Round. Signatories could not cherry pick only the parts they liked but had to accept the whole package through what was termed the 'single undertaking' – the principle that nothing was agreed until everything was agreed. In this way, domestic groups that stood to lose from elements of the package (such as agricultural producers in importing countries) could be outweighed by those standing to gain (such as producers of intellectual property, services and high technology manufactures). The single undertaking was crucial in enabling signatories to clear the Uruguay Round through their domestic legislative processes, particularly with regard to agriculture. As Robert Wolfe has argued, 'balance within agriculture ... could not be achieved for all participants, but the tight linkage to other areas of commercial policy through the Single Undertaking facilitated agreement... [I]mport-sensitive participants [such] as the EC, Japan, Korea and Switzerland would not likely have accepted agricultural liberalisation outside the Single Undertaking'.³⁸ Even then, it is likely that the single undertaking mechanism would not in itself have been enough to secure final agreement. The creation of a new institution – the WTO – and the institutional regeneration that came with it was crucial in securing support for the final package, which may make the comprehensive agreement of the Uruguay Round a one-off.³⁹

Two points emerge from this section. First, the Agreement on Agriculture – which remains the only multilateral trade agreement on agriculture – was supposed to begin the process of liberalization of the sector but was limited in effectiveness and demanded very little real policy change. Second, even this was only possible through the creation of the single undertaking as a new principle for the trade

³⁸ Robert Wolfe. 'The WTO Single Undertaking as Negotiating Technique and Constitutive Metaphor', *Journal of International Economic Law* 22: 4, 2008, p. 841.

³⁹ Rorden Wilkinson, *Transforming Our World by 2030: The Multilateral Trading System and the New Agenda for Sustainable Development*, International Trade Working Paper 2015/02, (London: Commonwealth Secretariat, 2015).

system. The next section demonstrates how the next round of negotiations, the DDA, followed a similar pattern.

The Doha Development Agenda

The inadequacies of the Agreement on Agriculture were clear even at the time it was concluded and it consequently included the stipulation that the negotiations would continue after a hiatus of five years. However, when the time came for negotiations to begin the EU and others made it clear that they could not offer further liberalization of agriculture without it being part of a wider package of deals. That is, they needed agriculture to form part of another single undertaking such that the domestic lobby-groups opposing further reforms could once again be balanced against those standing to gain in other areas.⁴⁰ This was among the factors that led to the launching in 2001 of the WTO's first round of trade negotiations, the DDA.

The Doha Ministerial Declaration, which set out the work programme for the round, reconfirmed members' commitment to establishing 'a fair and market-oriented trading system'.⁴¹ The tensions between those members seeking to continue protection in agriculture and those demanding liberalization were reflected in the tortured compromise language concerning the specific aims of the negotiations. Members committed themselves to 'comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support', but these aims were prefaced with the phrase 'without prejudging the outcome of the negotiations', explicitly acknowledging the possibility of nothing being achieved.⁴² As the negotiations began, developing

⁴⁰ European Commission, 'Statement by M.P. Carl, Director-General of DG Trade on behalf of the European Communities at the TNC', 18 July, 2002, available from http://trade.ec.europa.eu/doclib/docs/2004/november/tradoc_120119.pdf.

⁴¹ WTO, 'Doha WTO Ministerial 2001: Ministerial Declaration', WT/MIN(01)/DEC/1, 20 November 2001, paragraph 13.

⁴² WTO, 'Doha WTO Ministerial 2001, paragraph 13. See also J. Michael Finger, 'The Doha Agenda and Development: A View from the Uruguay Round', ERD Working Paper Series, No. 21, 2002, pp. 16-17.

countries saw the DDA as an opportunity to strengthen multilateral oversight of agricultural trade, particularly through bringing about significant reductions in subsidies. However, many also emphasized the need to protect rural livelihoods and ensure food security.⁴³

Almost from the start of the DDA negotiations it was clear that agriculture would be a central sticking point. In February 2003 the Chair of the agriculture negotiations, Stuart Harbinson, presented a text with proposals on all three main pillars – market access, export subsidies and domestic support.⁴⁴ The text was criticized from many sides. The EU argued that it went too far on export subsidies. The US argued that it was not ambitious enough on market access but also made it clear that the US would not be willing to undertake the demanded changes on domestic support. Following rejection of the Harbinson text by almost all parties, the EU and US undertook to produce a new proposal. This was published in August 2003 ahead of the Cancún Ministerial Conference, but was not well received by the remaining WTO membership including the Africa Group, India, Brazil, China and the developing countries of the Cairns Group of agricultural exporters.⁴⁵ Some details of why members opposed the proposal are useful for understanding the way in which agriculture is treated in the WTO system and the difficulties of achieving an agreement.

Reforms of the EU's Common Agricultural Policy had decoupled large parts of EU domestic support from production, greatly reducing the level of subsidies that counted towards their Aggregate

⁴³ See, among others, WTO, 'Southern African Development Community: Statement Circulated by the Honourable Peter Kaleso', WT/MIN(01)/ST/138, 12 November 2001; WTO, 'India: Statement by the Honourable Murasoli Maran Minister of Commerce and Industry', WT/MIN(01)/ST/10, 10 November 2001; WTO, 'Côte D'ivoire: Statement by H.E. Mr Kplohrouou Eric Kahe Minister of Commerce', WT/MIN(01)/ST/124, 12 November 2001.

⁴⁴ WTO, 'Committee on Agriculture - Special Session - Negotiations on Agriculture - First Draft of Modalities for the Further Commitments', 17 February, 2003, TN/AG/W/1.

⁴⁵ See WTO, 'Initial Remarks by the African Group to the Joint EC-US Paper on Agriculture', TN/AG/GEN/8, 19 August 2003; WTO, 'Joint Proposal by Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, India, Mexico, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Venezuela', WT/MIN(03)/W/6, 4 September 2003; and Third World Network, 'US-EC agriculture paper not acceptable as basis for negotiations, say developing countries', 15 August 2003, available from <http://www.twn.my/title/twninfo59.htm>.

Measure of Support (AMS).⁴⁶ Consequently the EU could propose 55-60 per cent reductions in AMS and around 50 per cent in the Blue Box⁴⁷ without this affecting existing support programmes. The United States had also introduced reforms to decouple subsidies from production but US total support remained much closer to its bound AMS compared to that of the EU. Any significant reduction would therefore oblige the US to undertake reform of its subsidy programmes, which it was not willing to do.⁴⁸ In order to accommodate the needs of the US, the joint proposal expanded the Blue Box to enable the US to reclassify important elements of its subsidy regime, particularly its counter-cyclical payments, as Blue Box (less trade distorting) subsidies and remove them from the AMS.

The joint proposal was quickly recognized by the developing countries as being an attempt to evade any meaningful liberalization and their resistance to it led to the collapse of the Cancún Ministerial Conference.⁴⁹ Over the following years, renewed efforts were made to come to a more acceptable solution among various groups of core WTO members. The text that was eventually on the table when the DDA negotiations finally entered a period of stasis had been thoroughly reworked, yet in key regards it continued to reflect the unwillingness of the rich countries to limit subsidies.⁵⁰ The US managed to maintain the reclassification of counter-cyclical payments, while the domestic support cuts required by the final draft text entailed no reductions to existing agricultural programmes in either the US or the EU, but would have simply cut out the 'water' between the bound rate and the applied rate of subsidies. While there may be value in concluding a deal that locks subsidies at their

⁴⁶ The Aggregate Measure of support refers to the total level of subsidies that are considered to be trade distorting.

⁴⁷ The Blue Box contains subsidies that would otherwise be in considered trade distorting and therefore be limited but which contain clauses designed to limit production.

⁴⁸ Rajesh Aggarwal, 'Dynamics of Agriculture Negotiations in the World Trade Organization', *Journal of World Trade* 39: 4, 2005, pp. 741-761.

⁴⁹ Amrita Narlikar and Rorden Wilkinson, 'Collapse at the WTO: a Cancún post-mortem', *Third World Quarterly* 25: 3, 2004, 447-460.

⁵⁰ WTO, 'Revised Draft Modalities for Agriculture', TN/A/W/4/Rev.4, 6 December, 2008.

current levels,⁵¹ the overall lesson from the DDA was the impossibility of negotiating a reduction in farm support in rich countries, even when this was going to be counterbalanced by significantly more ambitious liberalization of industrial goods.⁵²

The failure of other avenues to bring about change reinforces this lesson. Moral shaming, particularly over the effect of cotton subsidies, failed to achieve any movement in tackling subsidies.⁵³ Even the Dispute Settlement Mechanism has been shown to be unable to enforce current rules consistently in this area. For example, following its ruling that the US cotton subsidy regime was illegal the US opted to pay annual compensation to Brazil rather than change its policies – a situation that will continue through to at least 2018 since the latest US farm bill (covering 2014-2018) continues WTO-inconsistent cotton subsidies⁵⁴ – demonstrating that the chief architect of the international trade system is unwilling to abide by WTO rules. These disconnects between principle and practice have led to treatment of agriculture within the WTO being characterized as ‘organized hypocrisy’.⁵⁵

Reinforcing the difficulty of bringing about a more liberal trade regime in agriculture is the fact that the emerging powers are increasingly introducing their own subsidy schemes. While most developing countries continue to lack the financial resources to subsidize their farmers, those that have enjoyed sustained economic growth are increasingly turning toward agricultural support, leading to a degree of convergence in such practices among the small group of the most powerful member states of the WTO. The most prominent emerging powers – Brazil, India and China – have

⁵¹ Bernard Hoekman, Will Martin and Aaditya Mattoo, ‘Conclude Doha: it matters!’, *World Trade Review* 9: 3, 2010, pp. 505-530.

⁵² James Scott and Rorden Wilkinson ‘The poverty of the Doha Round and the least developed countries’, *Third World Quarterly* 32: 4, 2011, pp. 611-627.

⁵³ Matthew D Eagleton-Pierce, ‘The Competing Kings of Cotton:(Re) framing the WTO African Cotton Initiative’. *New Political Economy* 17: 3, 2012, pp. 313-337.

⁵⁴ Scott Andersen, Christian Lau, Simon Schropp and Daniel A. Sumner, ‘How could the 2014 US Farm Bill affect the world market for cotton?’, *Bridges Africa* 4: 8, 2015, pp. 15-19.

⁵⁵ Bukovansky, Mlada. ‘Institutionalized Hypocrisy and the Politics of Agricultural Trade’, in Rawi Abdelal, Mark Blyth and Craig Parsons, eds., *Constructing the international economy* (Cornell, Cornell University Press, 2015).

been joined by others, including Indonesia, Nigeria and Turkey, in increasing domestic support for farmers.⁵⁶ This trend is beginning to create new tensions, most notably surfacing at the Bali Ministerial Conference of 2013.⁵⁷ Responding to the sharply increased and more volatile food prices seen since 2007, India introduced the National Food Security Bill, or 'Right to Food Act' in September 2013, through which staple foodstuffs are purchased at guaranteed prices from small-holder farmers to be sold subsequently at low prices to those below the poverty line. The Agreement on Agriculture had made provisions for such public stockholding schemes, but the details had subsequently proven to be highly restrictive. Where they included minimum prices public stockholding schemes were considered to constitute subsidies, with the value of the subsidy calculated as the difference between that price and a reference price set at prevailing world prices between 1986 and 1988. Following the 2007 increase in global food prices that reference price was far below prevailing market prices, making the calculated subsidy level rise. Since developing countries generally had minimal subsidy schemes at the time of the Uruguay round's conclusion, their bound subsidy rate was set at zero, which made India's Food Security Bill exceed its AMS binding.

India's Food Security Bill reflects broader concerns with achieving food security that have come to the fore in the wake of the food price rises seen in 2007-8. As major civil unrest unfolded in numerous countries – Burkina Faso, Côte d'Ivoire, Egypt, Guinea, Haiti, Indonesia, Mauritania, Mexico, Morocco, Nepal, Peru, Senegal and Uzbekistan among others⁵⁸ – in protest at the changes in food affordability, the need for governments to pay far greater attention to food commodities and

⁵⁶ Lars Brink, 'The Evolution of Trade-Distorting Domestic Support', in Ricardo-Melendez-Ortiz, Christophe Bellmann and Jonathan Hepburn, eds., *Tackling Agriculture in the Post-Bali Context* (Geneva: ICTSD, 2014), pp. 139-146; Jikun Huang, Xiaobing Wang and Scott Rozelle, 'The subsidization of farming households in China's agriculture', *Food Policy* 41, 2013, pp. 124-132.

⁵⁷ Rorden Wilkinson, Erin Hannah and James Scott, 'The WTO in Bali: What MC9 means for the Doha Development Agenda and Why it Matters', *Third World Quarterly*, 35: 6, 2014, pp. 1041-4.

⁵⁸ UN, *The Global Social Crisis* (New York: UN, 2011), p. 62.

their affordability has been recognized, most notably by the commissioning by the UN of a report by a High Level Panel of Experts.⁵⁹ As Noah Zerbe puts it:

Perhaps food is unique among commodities in that it is fundamentally necessary for human experience. In this respect, any solution to the current crisis should begin with the premise that food should not be subject merely to regulation of the market; that food security should be a central goal of state policy.⁶⁰

Two schools of thought have arisen in response to the problems currently being seen in agricultural markets. For the WTO, World Bank and others, market liberalization should play the key role in improving food security.⁶¹ Liberalization will shift production to the most efficient areas, bringing prices down in the mid term, which, other things being equal, increases the affordability of food. Furthermore, trade liberalization is expected by adherents to this view to bring about higher growth and thereby higher incomes, enabling people to increase food consumption. As former DG Pascal Lamy put it: 'The reduction of trade barriers in agriculture, enhanced market access for agricultural products and the gradual decrease in subsidies provided by rich countries to their farmers ... all contribute to the same objective: the implementation of the right to food for all'.⁶²

However, the ability of liberalization to improve matters will necessarily have its limits. Amartya Sen famously demonstrated that the ability of people to access food depends as much on their set of

⁵⁹ High Level Panel of Experts. *Price volatility and food security. A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security* (Rome: UN, 2011).

⁶⁰ Zerbe, 'Setting the Global Dinner Table', p. 72.

⁶¹ See for example World Bank, *World Development Report* (Washington, DC: World Bank, 2008). For analysis, see Matias E. Margulis, 'Trading Out of the Global Food Crisis? The World Trade Organization and the Geopolitics of Food Security', *Geopolitics* 19: 2, 2014, pp. 322-350.

⁶² WTO, 'Towards Shared Responsibility and Greater Coherence: Human Rights, Trade and Macroeconomic Policy', speech to the Colloquium on Human Rights in the Global Economy, Geneva, 13 Jan. 2010, available from www.wto.org/english/news_e/sppl_e/sppl146_e.htm.

entitlements as it does on the availability of food in markets.⁶³ Sen's thinking has had a deep influence on the smorgasbord of UN agencies, which present an alternative view concerning the direction of global food governance based on rights and entitlements.⁶⁴ Defending and advancing this concept is most clearly articulated through the pronouncements of the former UN Special Rapporteur on the Right to Food, Olivier De Schutter, who argued that global trade rules must be secondary to what he calls the 'global consensus on hunger'.⁶⁵ He explicitly rejects an over-reliance on market mechanisms, arguing that 'it would be naïve to think that simply promoting more trade liberalization will be a solution. What is needed is a balanced trade agreement that puts the needs of the hungry at its centre. The poor need appropriate regulation and protection as much as they need trade'.⁶⁶ For some countries, particularly those that are less competitive in agriculture, the approach advocated by de Schutter is appealing, while more competitive members align behind giving a greater role to liberalization.

These differences in outlook contributed to the difficulties faced within the DDA, which was finally laid to rest at the Nairobi Ministerial Conference of 2015. Simultaneously, as noted above, the WTO members abandoned the principle of the single undertaking, ignoring the dissent of a number of developing countries led by India.⁶⁷ Currently discussions are taking place about how future negotiations will be organized in new areas, but with regard to agriculture the implications seem clear. As argued above, the single undertaking has been the crucial governance mechanism employed to overcome the political economy constraints to submitting agriculture to the market. Its abandonment makes the hitherto difficult task of achieving multilaterally agreed restrictions on

⁶³ Armatya Sen, *Poverty and famines: an essay on entitlement and deprivation* (Oxford: Oxford University Press, 1981).

⁶⁴ See Bill Pritchard, 'Trading into Hunger? Trading out of Hunger? International Food Trade and the Debate on Food Security', in Christopher Rosin, Paul Stock and Hugh Campbell, eds., *Food Systems Failure: The Global Food Crisis and the Future of Agriculture* (Abingdon and New York: Earthscan, 2012), p. 55.

⁶⁵ Olivier de Schutter, 'WTO: "Trade negotiations need to reflect the new global consensus on hunger," warns UN expert on right to food', 2009, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9656&LangID=E.

⁶⁶ De Schutter, 'WTO'.

⁶⁷ Wilkinson, Hannah and Scott, 'The WTO in Nairobi'.

agricultural distortions all but impossible. The insights of numerous political economy approaches, and the empirical history of post-World War II trade governance strongly suggest that a standalone agreement on agricultural liberalization would be all but impossible to clear through the domestic legislative processes of a significant number of member states. The so-called mega-regionals offer scant likelihood of movement on subsidies. The most comprehensive such agreement, the Trans-Pacific Partnership, included no provisions to tackle domestic agricultural subsidies.⁶⁸ The traditional WTO approach in which numerous sectors were linked together in a trade round, all agreed on the basis of the single undertaking and providing benefits to all participants through the principle of diffuse reciprocity, has been abandoned, opening up the agenda to new issues but also surely putting the nail in the coffin of attempts to submit agriculture to market disciplines.

The picture that emerges is that there has been a sporadic effort by a subset of agricultural exporters to liberalize agricultural trade throughout the period of the GATT and WTO but this effort has consistently been blocked.⁶⁹ Repeated attempts to bring agriculture from the 'embedded' side into the 'liberal' wing have been thwarted by those countries concerned about protecting inefficient agricultural producers. In the post-WWII era there has *never* been a successful attempt to liberalize agricultural trade – the Agreement on Agriculture did almost nothing to reduce protection – and the constant tensions within the DDA and its final demise over the issue of the SSM demonstrates the continued reluctance to pursue this agenda. At best, the DDA texts offered modest change, shifting subsidies around rather than reducing them and having only a limited impact on tariff peaks, and even this modest change has been strongly resisted by numerous groups. The G10 group of countries most defensive on agriculture continue to push the 'multifunctionality' of agriculture and the need to protect the rural economy.⁷⁰ The 'martyrdom' (as some NGOs like to put it) of Lee Kyung

⁶⁸ Though it should be noted that the TPP did include a ban on export subsidies. However, these had been phased out anyway, so the TPP would make no impact on existing programmes. The WTO also agreed a ban on export subsidies as part of the Nairobi outcome.

⁶⁹ See also Margulis, 'Forgotten History'.

⁷⁰ WTO, 'G-10 Ministerial Communiqué - Paris - 2 May 2005', WT/L/609, 19 May 2005.

Hae – the South Korean farmer who committed suicide in 2003 in protest at the reforms of agriculture included in the DDA – continues to be a rallying cry for NGOs opposed to the direction of the negotiations and illustrates the political difficulties member states will have in pursuing deep agricultural liberalization. Such considerations highlight the continued need for reform, and there has been no shortage of proposals put forward. The next section turns to these and explores the implications of the preceding analysis for the future direction of the WTO.

Future directions

Before turning to reform proposals it is worth noting that while the deadlock within the WTO affects the future possibility of negotiations concerning all core sectors, failure to reform the rules on agriculture is more concerning than other areas. This is for two key reasons.

First, the existing baseline within agriculture is much more distortionary than other sectors. This is the result not only of subsidies, as set out above, but also other sources of distortion, such as increasing market concentration among a few powerful companies in important parts of the production chain, which has contributed to price inflation and thereby hunger.⁷¹ In addition, tariffs are significantly higher in agriculture than in other sectors. If there is no forthcoming multilateral agreement on non-agricultural market access, a status quo will be maintained in which the major economies have locked in place relatively low bound tariff rates for industrial goods, but those within agriculture are significantly higher. Furthermore, such simple averages hide sometimes immense tariff peaks. China, the EU and Japan all have tariffs of above 25 per cent on approximately one tenth of their agricultural tariff lines. Some specific products face huge peaks on bound tariff rates – 800 per cent on rice in Japan's schedules, 314 per cent on Canadian dairy products and 600

⁷¹ Joseph Baines, 'Food Price Inflation as Redistribution: Towards a New Analysis of Corporate Power in the World Food System', *New Political Economy* 19: 1, (2014), pp. 79-112. Sophia Murphy, 'Globalization and corporate concentration in the food and agriculture sector'. *Development* 51: 4, 2008, pp. 527-533.

per cent on isoglucose imports into the EU, for instance. All too often it is developing countries that lose market opportunities as a result of these distortions.

Second, other WTO agreements at times provide weaker remedies than they do for non-agricultural goods. One example is the Subsidies and Countervailing Measures (SCM) agreement. In theory, the price depressing effect of agricultural subsidies could be counteracted by countervailing duties imposed via the SCM. However, while this can play a role, in some important cases it is not possible. To take one example, the West African cotton exporting countries – known as the Cotton Four – that have been prominent in demanding disciplines on cotton subsidies paid by the rich countries (particularly the US) have no recourse to the SCM to remedy their trade losses, since they are interested in exporting, not importing, cotton. The countries importing cotton for use in manufacturing industries have little incentive to impose countervailing duties on subsidized US cotton exports since their industrial sectors benefit from cheaper priced inputs. Consequently, West African exporters have no means of attenuating their losses within existing WTO agreements. This dynamic is also at work in some manufacturing sectors, notably steel and pharmaceuticals, where there is concern about subsidized production, but the rules on subsidizing manufacturing are significantly stronger and the problem is mainly to be found in agricultural trade.

Numerous reforms to agricultural trade governance have been put forward from both within and outside the WTO, ranging from small-scale, incremental reform to suggestions for wholly different regulatory frameworks. Norway put forward a modest proposal in July 2016⁷² that would cut some of the ‘water’ from AMS and reduce non-product specific *de minimus* support.⁷³ This would demand no, or minimal, changes in current policies by the subsidising states and exclude almost all

⁷² WTO. ‘Committee on Agriculture - Special session - Domestic support - Building on existing disciplines - Non-paper from Norway’, JOB/AG/42, 6 June 2015.

⁷³ *De minimus* support is defined in the WTO’s online glossary as being ‘Minimal amounts of domestic support that are allowed even though they distort trade — up to 5% of the value of production for developed countries, 10% for developing’. Available from www.wto.org.

developing countries from reductions – described as a ‘superficial’ approach by South Centre.⁷⁴ While such an incremental approach would be politically the most palatable for the rich countries, the lack of ambition meant that the proposal received little support from those wanting to see greater cuts and the proposal gained little traction.⁷⁵

At the other end of the spectrum, a far more radical approach to changing the subsidies regime has been offered by Clive George, who has argued that rather than seek to limit subsidies a new WTO regulatory framework should be put in place on all agricultural exports to impose a mandatory export tax equal to the value of any subsidies received.⁷⁶ This would have the effect of enabling countries to use whatever domestic regime they want in pursuit of ensuring their food security, rural development and the other components of multifunctionality such as animal welfare and environmental standards, but it would insulate other countries from the problem of subsidized agricultural goods undermining their own production and competitiveness. States would be free to use subsidies to maintain domestic production even when it is not competitive with world prices, but only within the domestic market and not, as is currently the case, in third party markets with the resulting effects on other countries’ food production.

The export tax required under George’s proposal would be set to counterbalance the extent to which the subsidy reduces the price of the goods in question, a similar calculation to that already done by the OECD in its yearly analysis of Producer Support Estimates.⁷⁷ This could be argued to be an improvement on current rules since at present the less trade distorting Blue and Green boxes are unconstrained, justified on the grounds that they are less trade distorting. However, it is increasingly

⁷⁴ South Centre, ‘The WTO’s Agriculture Domestic Supports Negotiations’, Analytical note, 2017, SC/AN/TDP/2017/1.

⁷⁵ WTO, ‘WTO members remain divided on how to advance agriculture negotiations’, News item, 22 July 2015.

⁷⁶ Clive George, *The Truth About Trade* (London and New York: Zed Books, 2010), pg 142.

⁷⁷ OECD, ‘Producer and Consumer Support Estimates database’, 2016, available from www.oecd.org.

recognized that such subsidies still have a trade impact.⁷⁸ Any policy that provides regular, reliable financial support to farmers will affect their attitude to risk and therefore impact on their production decisions.

George's radical redrawing of the entire framework for how the WTO regulates subsidies is not something that has entered the WTO debate. Nonetheless, other proposals have moved a small way in that direction such as the paper put forward by Brazil, Argentina, Columbia and Paraguay,⁷⁹ which proposed that limits to subsidies might be linked to exports, allowing countries that have no impact on world markets a free rein in agricultural policies. However, such proposals have not received the support of subsidising countries. Nor is support likely from states wanting access to major consumer markets, if domestic producers in those markets are not exporting but are able to compete only through subsidy schemes which would be exempt from challenge.

What does this mean for the future direction of WTO negotiations? Crystal ball gazing is a perilous and unforgiving enterprise. However, we can use history as a guide for tackling this question, most notably the effect within the GATT of a regime in which agriculture was largely excluded. Two fairly safe predictions can be made about the future direction of the WTO, both of which have concerning implications. First, it is clear that WTO agreements will turn to plurilateral initiatives, based on coalitions of the willing. This was the outcome desired by the US and EU in ending the DDA, enabling the trade agenda to move on to new issues without the constraints of including all WTO members and including all topics under a single undertaking. Far from being an entirely new world, this in fact returns to the prevalent mode of operation throughout the period of the GATT, which was more

⁷⁸ Oxfam, *A Round for Free: How Rich Countries are getting a free ride on agricultural subsidies at the WTO*, Oxfam Briefing Paper No. 76, (Oxford: Oxfam, 2005), p. 24.

⁷⁹ WTO, 'Committee on Agriculture – Special Session – Domestic Support – Submission by Brazil, Argentina, Columbia and Paraguay', JOB/AG/72, 22 June 2016. See South Centre, 'The WTO's Agriculture', pp. 31-32 for comments.

often plurilateral than multilateral.⁸⁰ Qualitative research has noted that this led to the effective exclusion of the interests of the developing world.⁸¹ The agenda was set by the advanced industrialized countries, tackling issues of particular concern to their own trade and setting in place regulatory regimes that privileged their own interests. The result was asymmetric trade rounds that created trade opportunities only in areas in which the rich world had a comparative advantage.

Quantitative work has confirmed this analysis. Arvind Subramanian and Shang-Jin Wei have explored whether the GATT/WTO increased trade and the distribution of benefits that it created. They find that the GATT/WTO regime has significantly increased total trade flows, but these benefits were heavily skewed toward the industrialized countries and the increased trade flows were not seen in the sectors that were effectively excluded from the GATT (i.e. agriculture and textiles and clothing). Subramanian and Wei put these asymmetries down to developing countries opting not to engage in liberalization: 'because developing countries did not engage in tariff negotiations in these sectors, developed countries had less incentive to liberalize'.⁸² While it is undeniably the case that developing countries liberalized less within the GATT than developed countries, the considerations above suggest that it is mistaken to explain the failure to achieve agricultural liberalization by developing countries not engaging sufficiently.⁸³ This view rather ignores the political economy constraints that preclude meaningful agricultural liberalization, which cannot be overcome by any promises of reciprocity on the part of the developing world. No amount of liberalization by the Cotton Four countries will induce the US to change its cotton subsidies, which are tightly bound by domestic constraints. Nonetheless, Subramanian and Wei's work highlights the way the benefits of the trade system were skewed towards the industrialized countries while little was gained by the less developed, particularly those reliant on agricultural exports.

⁸⁰ Valbona Muzaka and Matthew Louis Bishop, 'Doha stalemate: The end of trade multilateralism?' *Review of International Studies* 41: 2, 2015, pp. 383-406.

⁸¹ Rorden Wilkinson and James Scott, 'Developing Country Participation in the GATT: A Reassessment' *World Trade Review* 7:3, 2008, pp. 473-510; Wilkinson, *What's wrong with the WTO*.

⁸² Subramanian and Wei, 'The WTO promotes trade', p. 167.

⁸³ A similar argument can be made for the case of textiles and clothing.

Conclusion

This article has argued that the body of scholarship on trade strongly suggests that securing liberalization in the agricultural sector through the WTO will be highly unlikely, particularly on subsidies, unless there is a significant and unexpected change in the politics at play. The implications of the end of the single undertaking and with it the effective abandonment of any serious attempt to bring agriculture more comprehensively within the norms governing trade in industrial products are made clear by both the qualitative and quantitative appraisals of the effects of the GATT. The exclusion of this sector ensures that the distributional benefits of the trade system will be to the detriment of those countries that rely on agricultural products for their export earnings, including some of the poorest WTO members. The WTO holds no meaningful prospects for advancing the interests of those countries that hold a comparative advantage in agricultural products.

Nonetheless, WTO negotiations will continue and deals in other sectors will be made, giving us the prospect of further asymmetric bargains. The single undertaking as a negotiating principle was not without problems⁸⁴ and my intention is not to reify it, but the prospect of the WTO being unable to 'level the playing field' in agriculture ought to bring about deep reflection on the part of WTO members and elsewhere on the normative underpinning of the organization. If the WTO cannot deliver agricultural liberalization, then it cannot deliver gains for a significant section of its members through the traditional means of trade rounds, and some other form of benefit for them must be sought. One possible direction could be increasing the role that the WTO plays in development – which has been growing substantially despite the tendency to declare that the WTO is not a development organization – and giving it a direct mandate to assist developing countries to industrialize. This would mean a substantial shift in the normative underpinnings of the organization,

⁸⁴ Rolland, 'Redesigning the Negotiation Process'.

shifting it away from the idea of liberal trade being the means by which development is attained towards focusing more on the need to actively *change* areas of comparative advantage.

This is just one suggestion designed to do no more than open a conversation. What is unquestionably needed is greater reflection on how the multilateral trade system is to ensure that all members have new trade opportunities opened to them, in a system in which the prospect of meaningful liberalization in agriculture has had to be all but given up. The legitimacy of the WTO in its current form and its goals – namely ‘to improve the welfare of the peoples of the member countries’ through progressive liberalization – cannot be sustained if agriculture is effectively no longer on the agenda as this renders as fictional the idea that the WTO can bring benefits to all members regardless of their areas of comparative advantage. The WTO gains a degree of legitimacy through the *de jure* inclusion of agriculture, holding out the prospects to agricultural producers in the developing world of securing their interests through membership and participation. Yet the *de facto* abandonment of that goal makes that legitimacy highly questionable.